

**EIGHTY-FOURTH GENERAL ASSEMBLY  
2012 REGULAR SESSION  
DAILY  
SENATE CLIP SHEET**

APRIL 9, 2012

**HOUSE AMENDMENT TO  
SENATE FILE 2293**

**S-5183**

1 Amend Senate File 2293, as amended, passed, and  
2 reprinted by the Senate, as follows:  
3 1. Page 3, line 34, by striking <premium> and  
4 inserting <premium, less claims paid,>  
5 2. By striking page 11, line 8, through page 15,  
6 line 14, and inserting:  
7 <Sec. \_\_\_\_\_. Section 514J.102, subsections 1 and 10,  
8 Code Supplement 2011, are amended to read as follows:  
9 1. "Adverse determination" means a determination  
10 by a health carrier that an admission, availability  
11 of care, continued stay, or other health care service  
12 that is a covered benefit has been reviewed and,  
13 based upon the information provided, does not meet the  
14 health carrier's requirements for medical necessity,  
15 appropriateness, health care setting, level of  
16 care, or effectiveness, and the requested service or  
17 payment for the service is therefore denied, reduced,  
18 or terminated. "Adverse determination" includes a  
19 denial of coverage for a dental care service that is  
20 a covered benefit that has been reviewed and, based  
21 upon the information provided, does not meet the health  
22 carrier's requirements for medical necessity, and  
23 the requested service or payment for the dental care  
24 service is therefore denied, reduced, or terminated,  
25 in whole or in part. "Adverse determination" does not  
26 include a denial of coverage for a service or treatment  
27 specifically listed in plan or evidence of coverage  
28 documents as excluded from coverage.  
29 10. "Covered benefits" or "benefits" means those  
30 health care services and dental care services to which  
31 a covered person is entitled under the terms of a  
32 health benefit plan.  
33 Sec. \_\_\_\_\_. Section 514J.102, Code Supplement 2011,  
34 is amended by adding the following new subsection:  
35 NEW SUBSECTION. 11A. "Dental care services" means  
36 services for diagnostic, preventive, maintenance, and  
37 therapeutic dental care that is provided under chapter  
38 153.>  
39 3. Page 18, after line 12 by inserting:  
40 <Sec. \_\_\_\_\_. Section 522B.12, Code 2011, is amended  
41 by adding the following new subsection:  
42 NEW SUBSECTION. 5. A person who enrolls in a  
43 qualified health benefit plan offered in this state  
44 pursuant to federal law has the option to utilize the  
45 services of an insurance producer licensed pursuant  
46 to chapter 522B. Qualified health benefit plans  
47 offered pursuant to federal law shall pay licensed  
48 insurance producers for their services at a level that  
49 is commensurate with the compensation paid to insurance  
50 producers for the placement, renewal, or enrollment of

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1 persons in health benefit plans offered pursuant to  
2 state law.>

3 4. Page 19, after line 14 by inserting:

4 <Sec. \_\_\_\_\_. NEW SECTION. 522D.1 Definitions.

5 As used in this chapter, unless the context  
6 otherwise requires:

7 1. "Commissioner" means the commissioner of  
8 insurance.

9 2. "Navigator" means a public or private entity  
10 or an individual that is qualified and licensed, if  
11 appropriate, to engage in the activities and meet the  
12 standards described in 45 C.F.R. § 155.210.

13 Sec. \_\_\_\_\_. NEW SECTION. 522D.2 License required.

14 A person shall not act as a navigator in this state  
15 unless the person is licensed by the commissioner as  
16 required in this chapter.

17 Sec. \_\_\_\_\_. NEW SECTION. 522D.3 Actions prohibited.

18 A navigator shall not perform the functions of a  
19 person required to be licensed as an insurance producer  
20 under chapter 522B unless the navigator is licensed  
21 as a navigator pursuant to this chapter and as an  
22 insurance producer pursuant to chapter 522B.

23 Sec. \_\_\_\_\_. NEW SECTION. 522D.4 Application for  
24 examination.

25 1. An individual applying for a navigator license  
26 shall pass a written examination. The examination  
27 shall test the knowledge of the individual concerning  
28 the duties and responsibilities of a navigator and the  
29 insurance laws and regulations of this state. The  
30 commissioner shall adopt rules pursuant to chapter  
31 17A related to the development and conduct of the  
32 examination.

33 2. The commissioner may make arrangements,  
34 including contracting with an outside testing service  
35 or other appropriate entity, for administering  
36 examinations and collecting fees.

37 3. An individual applying for an examination shall  
38 remit a nonrefundable fee as established by rule of the  
39 commissioner.

40 4. An individual who fails to appear for the  
41 examination as scheduled or fails to pass the  
42 examination shall reapply for an examination and remit  
43 all required fees and forms before being rescheduled  
44 for another examination.

45 Sec. \_\_\_\_\_. NEW SECTION. 522D.5 Application for  
46 license.

47 1. A person applying for a navigator license shall  
48 make application to the commissioner on an application  
49 form approved by the commissioner and declare under  
50 penalty of refusal, suspension, or revocation of the

1 license that the statements made on the application  
2 are true, correct, and complete to the best of the  
3 individual's knowledge and belief. Before approving  
4 the application, the commissioner shall find all of the  
5 following:

6 a. The individual is at least eighteen years of  
7 age.

8 b. The individual has not committed any act that is  
9 a ground for denial, suspension, or revocation as set  
10 forth in section 522D.7.

11 c. The individual has paid the license fee, as  
12 established by the commissioner by rule.

13 d. The individual has successfully completed the  
14 initial training and education program for a license as  
15 established by the commissioner by rule.

16 e. The individual has successfully passed the  
17 examination as provided in section 522D.4.

18 f. In order to protect the public interest, the  
19 individual has the requisite character and competence  
20 to receive a license as a navigator.

21 2. A public or private entity acting as a navigator  
22 may elect to obtain a navigator license. Application  
23 shall be made using the application form approved by  
24 the commissioner. Prior to approving the application,  
25 the commissioner shall find both of the following:

26 a. The entity has paid the appropriate fees.

27 b. The entity has designated a licensed navigator  
28 responsible for the entity's compliance with this  
29 chapter.

30 Sec. \_\_\_\_\_. NEW SECTION. 522D.6 License.

31 1. A person who meets the requirements of sections  
32 522D.4 and 522D.5, unless otherwise denied licensure  
33 pursuant to section 522D.7, shall be issued a navigator  
34 license. A navigator license is valid for three years.

35 2. A navigator license remains in effect unless  
36 revoked or suspended as long as all required fees are  
37 paid and continuing education requirements are met by  
38 any applicable due date. A navigator is required to  
39 complete continuing education requirements required by  
40 law in order to be eligible for license renewal.

41 3. A licensed navigator who is unable to comply  
42 with license renewal procedures due to military service  
43 or other extenuating circumstances may request a waiver  
44 of those procedures. The licensed navigator may also  
45 request a waiver of any examination requirement or any  
46 other penalty or sanction imposed for failure to comply  
47 with renewal procedures.

48 4. The license shall contain the licensee's  
49 name, address, personal identification number, the  
50 date of issuance, the expiration date, and any other

1 information the commissioner deems necessary.

2 5. A licensee shall inform the commissioner by any  
3 means acceptable to the commissioner of a change of  
4 legal name or address within thirty days of the change.  
5 Failure to timely inform the commissioner of a change  
6 of legal name or address may result in a penalty as  
7 specified in section 522D.7.

8 6. The commissioner shall require by rule that  
9 a licensed navigator furnish a surety bond or other  
10 evidence of financial responsibility that protects all  
11 persons against wrongful acts, misrepresentations,  
12 errors, omissions, or negligence of the navigator.

13 7. In order to assist with the commissioner's  
14 duties, the commissioner may contract with a  
15 nongovernmental entity, including the national  
16 association of insurance commissioners or any affiliate  
17 or subsidiary the national association of insurance  
18 commissioners oversees, to perform any ministerial  
19 functions, including the collection of fees, related  
20 to navigator licensing that the commissioner deems  
21 appropriate.

22 Sec. \_\_\_\_\_. NEW SECTION. 522D.7 License denial,  
23 nonrenewal, or revocation.

24 1. The commissioner may place on probation,  
25 suspend, revoke, or refuse to issue or renew a  
26 navigator's license or may levy a civil penalty as  
27 provided in section 522D.8 for any one or more of the  
28 following causes:

29 a. Providing incorrect, misleading, incomplete,  
30 or materially untrue information in the license  
31 application.

32 b. Violating any insurance laws, or violating any  
33 regulation, subpoena, or order of the commissioner or  
34 of a commissioner of another state.

35 c. Obtaining or attempting to obtain a license  
36 through misrepresentation or fraud.

37 d. Improperly withholding, misappropriating, or  
38 converting any moneys or properties received in the  
39 course of doing insurance business.

40 e. Intentionally misrepresenting the terms of an  
41 actual or proposed insurance contract or application  
42 for insurance.

43 f. Having been convicted of a felony.

44 g. Having admitted or been found to have committed  
45 any unfair insurance trade practice or fraud.

46 h. Using fraudulent, coercive, or dishonest  
47 practices, or demonstrating incompetence,  
48 untrustworthiness, or financial irresponsibility  
49 in the conduct of business in this state or elsewhere.

50 i. Having a navigator license, or its equivalent,

1 denied, suspended, or revoked in any other state,  
2 province, district, or territory.

3 j. Forging another's name to an application for  
4 insurance or to any document related to an insurance  
5 transaction.

6 k. Improperly using notes or any other reference  
7 material to complete an examination for a navigator  
8 license.

9 l. Failing to comply with an administrative or  
10 court order imposing a child support obligation.

11 m. Failing to comply with an administrative or  
12 court order related to repayment of loans to the  
13 college student aid commission.

14 n. Failing to pay state income tax or comply with  
15 any administrative or court order directing payment of  
16 state income tax.

17 o. Failing or refusing to cooperate in an  
18 investigation by the commissioner.

19 2. If the commissioner does not renew a license or  
20 denies an application for a license, the commissioner  
21 shall notify the applicant or licensee and advise,  
22 in writing, the licensee or applicant of the reason  
23 for the nonrenewal of the license or denial of the  
24 application for a license. The licensee or applicant  
25 may request a hearing on the nonrenewal or denial. A  
26 hearing shall be conducted according to section 507B.6.

27 3. The license of a public or private entity  
28 operating as a navigator may be suspended, revoked,  
29 or refused if the commissioner finds, after hearing,  
30 that an individual navigator licensee's violation was  
31 known or should have been known by a partner, officer,  
32 or manager acting on behalf of the entity and the  
33 violation was not reported to the commissioner and  
34 corrective action was not taken.

35 4. In addition to, or in lieu of, any applicable  
36 denial, suspension, or revocation of a license, a  
37 person, after hearing, may be subject to a civil  
38 penalty as provided in section 522D.8.

39 5. The commissioner may conduct an investigation  
40 of any suspected violation of this chapter pursuant  
41 to section 507B.6 and may enforce the provisions and  
42 impose any penalty or remedy authorized by this chapter  
43 and chapter 507B against any person who is under  
44 investigation for, or charged with, a violation of  
45 either chapter even if the person's license has been  
46 surrendered or has lapsed by operation of law.

47 6. a. In order to assure a free flow of  
48 information for accomplishing the purposes of this  
49 section, all complaint files, investigation files,  
50 other investigation reports, and other investigative

1 information in the possession of the commissioner or  
2 the commissioner's employees or agents that relates to  
3 licensee discipline are privileged and confidential,  
4 and are not subject to discovery, subpoena, or  
5 other means of legal compulsion for their release  
6 to a person other than the licensee, and are not  
7 admissible in evidence in a judicial or administrative  
8 proceeding other than the proceeding involving  
9 licensee discipline. A final written decision of the  
10 commissioner in a disciplinary proceeding is a public  
11 record.

12 b. Investigative information in the possession  
13 of the commissioner or the commissioner's employees  
14 or agents that relates to licensee discipline may  
15 be disclosed, in the commissioner's discretion, to  
16 appropriate licensing authorities within this state,  
17 the appropriate licensing authority in another state,  
18 the District of Columbia, or a territory or country in  
19 which the licensee is licensed or has applied for a  
20 license.

21 c. If the investigative information in the  
22 possession of the commissioner or the commissioner's  
23 employees or agents indicates a crime has been  
24 committed, the information shall be reported to the  
25 proper law enforcement agency.

26 d. Pursuant to the provisions of section 17A.19,  
27 subsection 6, upon an appeal by the licensee, the  
28 commissioner shall transmit the entire record of the  
29 contested case to the reviewing court.

30 e. Notwithstanding the provisions of section  
31 17A.19, subsection 6, if a waiver of privilege has  
32 been involuntary and evidence has been received at a  
33 disciplinary hearing, the court shall issue an order to  
34 withhold the identity of the individual whose privilege  
35 was waived.

36 Sec. \_\_\_\_\_. NEW SECTION. 522D.8 Cease and desist  
37 orders – penalties.

38 1. A navigator who, after hearing, is found to have  
39 violated this chapter, may be ordered to cease and  
40 desist from engaging in the conduct resulting in the  
41 violation and may be assessed a civil penalty pursuant  
42 to chapter 507B.

43 2. If a person does not comply with an order issued  
44 pursuant to this section, the commissioner may petition  
45 a court of competent jurisdiction to enforce the order.  
46 The court shall not require the commissioner to post  
47 a bond in an action or proceeding under this section.  
48 If the court finds, after notice and opportunity for  
49 hearing, that the person is not in compliance with an  
50 order, the court may adjudge the person to be in civil



1 contempt of the order. The court may impose a civil  
2 penalty against the person for contempt in an amount  
3 not less than three thousand dollars but not greater  
4 than ten thousand dollars for each violation and may  
5 grant any other relief that the court determines is  
6 just and proper in the circumstances.

7 Sec. \_\_\_\_\_. NEW SECTION. 522D.9 Injunctive relief.

8 1. A person may bring an action in district court  
9 to enjoin another person from acting as a navigator in  
10 violation of section 522D.2. However, before bringing  
11 an action in district court to enjoin a person pursuant  
12 to this section, the person shall file a complaint with  
13 the insurance division alleging that another person is  
14 acting as a navigator in violation of section 522D.2.

15 2. If the division makes a determination to proceed  
16 administratively against the person for a violation  
17 of section 522D.2, the complainant shall not bring an  
18 action in district court against the person pursuant to  
19 this section based upon the allegations contained in  
20 the complaint filed with the division.

21 3. If the division does not make a determination  
22 to proceed administratively against the person for  
23 a violation of section 522D.2, the division shall  
24 issue, by ninety days from the date of filing of the  
25 complaint, a release to the complainant that permits  
26 the complainant to bring an action in district court  
27 pursuant to this section.

28 4. The filing of a complaint with the division  
29 pursuant to this section tolls the statute of  
30 limitations pursuant to section 614.1 as to the alleged  
31 violation for a period of one hundred twenty days from  
32 the date of filing the complaint.

33 5. Any action brought in district court by a  
34 complainant against a person pursuant to this section,  
35 based upon the allegations contained in the complaint  
36 filed with the division, shall be brought within one  
37 year after the ninety-day period following the filing  
38 of the complaint with the division, or the date of the  
39 issuance of a release by the division, whichever is  
40 earlier.

41 6. If the court finds that the person is in  
42 violation of section 522D.2 and enjoins the person from  
43 acting as a navigator in violation of that section,  
44 the court's findings of fact and law, and the judgment  
45 and decree, when final, shall be admissible in any  
46 proceeding initiated pursuant to section 522D.8 by the  
47 commissioner against the person enjoined and the person  
48 enjoined shall be precluded from contesting in that  
49 proceeding the court's determination that the person  
50 acted as a navigator in violation of section 522D.2.

1 Sec. \_\_\_\_\_. NEW SECTION. 522D.10 Rules.

2 The commissioner may adopt rules pursuant to  
3 chapter 17A as are necessary or proper to carry out the  
4 purposes of this chapter.

5 Sec. \_\_\_\_\_. NEW SECTION. 522D.11 Severability.

6 If any provision of this chapter or its application  
7 to any person or circumstance is held invalid by a  
8 court of competent jurisdiction or by federal law,  
9 the invalidity does not affect other provisions or  
10 applications of the chapter that can be given effect  
11 without the invalid provision or application, and to  
12 this end the provisions of the chapter are severable  
13 and the valid provisions or applications shall remain  
14 in full force and effect.

15 Sec. \_\_\_\_\_. NEW SECTION. 522D.12 Future repeal.

16 If the federal law requiring the establishment  
17 of an exchange in each state is repealed by federal  
18 legislation or is ruled invalid by a decision of the  
19 United States supreme court, the commissioner shall  
20 notify the Iowa Code editor of the effective date of  
21 the repeal or the date of the ruling. This chapter  
22 is repealed on the effective date of such federal  
23 legislation or the date of the United States supreme  
24 court decision.>

25 5. Page 21, by striking lines 1 through 12.

26 6. Page 21, by striking lines 17 and 18.

27 7. Page 21, after line 18 by inserting:

28 <Sec. \_\_\_\_\_. EFFECTIVE DATE. The following provision  
29 or provisions of this Act take effect July 1, 2013:

30 1. The sections of this Act enacting chapter 522D.>

31 8. By renumbering as necessary.

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HOUSE AMENDMENT TO SENATE AMENDMENT TO  
HOUSE FILE 609

S-5182

1 Amend the Senate amendment, H-8388, to House File  
2 609, as passed by the House, as follows:

3 1. Page 1, after line 4 by inserting:

4 <\_\_\_\_. Page 1, after line 4 by inserting:

5 <Sec. \_\_\_\_\_. Section 557.7, Code 2011, is amended to  
6 read as follows:

7 557.7 Contingent remainders.

8 A Except as provided in section 558.68A, a  
9 contingent remainder shall take effect, notwithstanding  
10 any determination of the particular estate, in the same  
11 manner in which it would have taken effect if it had  
12 been an executory devise or a springing or shifting  
13 use, and shall, as well as such limitations, be subject  
14 to the rule respecting remoteness known as the rule  
15 against perpetuities, ~~exclusive of any other supposed~~  
16 ~~rule respecting limitations to successive generations~~  
17 ~~or double possibilities.~~

18 Sec. \_\_\_\_\_. NEW SECTION. 558.68A Exception to rule  
19 against perpetuities.

20 1. Notwithstanding section 558.68, a rule of  
21 law against perpetuities, a suspension of the power  
22 of alienation of the title to property, or a law  
23 restricting or limiting the duration of trusts shall  
24 not apply with respect to any interest in real or  
25 personal property held in trust if the instrument  
26 creating the trust specifically states that such rule  
27 or the provisions of section 558.68 shall not apply  
28 to the trust and if either the trustee of the trust  
29 has unlimited power to sell all trust assets or if one  
30 or more persons, one of whom may be the trustee, has  
31 unlimited power to terminate the entire trust.

32 2. A trust of real or personal property created  
33 by an employer as part of a stock bonus plan, pension  
34 plan, disability or death benefit plan, or profit  
35 sharing plan, for the benefit of some or all the  
36 employer's employees, to which contributions are made  
37 by the employer or employees, or both, for the purposes  
38 of distributing to the employees or their beneficiaries  
39 the earnings or the principal, or both, of such  
40 trust is not invalid as violating the rule against  
41 perpetuities or any other law restricting or limiting  
42 the duration of trusts; but the trust may continue for  
43 the time that is necessary to accomplish the purposes  
44 for which it was created.

45 3. Subsection 1 shall be effective for interests  
46 in real or personal property in trust created by an  
47 inter vivos or testamentary trust or will executed on  
48 or after July 1, 2012, or pursuant to the exercise of  
49 a general power of appointment created on or after  
50 July 1, 2012. For the purposes of this subsection,

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1 "general power of appointment" means a power that is  
2 exercisable in favor of the individual possessing the  
3 power, the person's estate, the person's creditors, or  
4 the creditors of the person's estate.>>

5 2. Page 5, line 36, after <including> by inserting  
6 <trusts of real or personal property,>

7 3. By renumbering as necessary.

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S-5182 FILED APRIL 5, 2012